

### E-Mail Request for Emergency Relief

1. Case Number: 05-cv-614-SLR

2. Check the box that applies:

- ☐ Requesting a teleconference with the parties and the court  
☒ Requesting an in-person conference with the parties and the court  
☐ Requesting either of the above listed options at the court's determination

3. BRIEFLY describe the reason for this **emergency** request:

Fact discovery closes today, and there are several critical deficiencies in Acambis' responses which may delay expert discovery, including: (1) Acambis unilaterally refused to produce a 30(b)(6) witness on many topics noticed by Bavarian Nordic; (2) Acambis refuses to provide proper responses to interrogatories, offering instead a table cross-referencing responses and objections from discovery in the ITC "investigation" (which involves claims, defenses, and operative facts which are not co-extensive with this action); and (3) there are deficiencies and unwarranted relevancy redactions in Acambis' document production that should be addressed before the 30(b)(6). Having not resolved these issues by the close of fact discovery, BN respectfully requests an additional conference with the Court to resolve these and other significant discovery issues which may impact the progress of the case.

\*Any text added beyond the limits of this space will be disregarded by the court.

4. Name of opposing counsel contacted about this request: William Coston & T. Bentz

5. Response of opposing counsel to this request:

The parties have been corresponding about these issues through the close of business today, and while Acambis appears to be moderating somewhat its position on the 30(b)(6), neither that nor the other issues have been resolved.

6. Name of local counsel making this request: Karen L. Pascale (#2903)

7. Today's Date: September 21, 2006

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For court use only:

- ☐ A teleconference will be held on \_\_\_\_\_ to be coordinated and initiated by \_\_\_\_\_
- ☒ An in-person discovery conference will be held on:
- ☐ Other: Thursday, October 5, 2006 at 10:00 a.m. to resolve all remaining discovery disputes. The costs associated with this conference may be assessed, if any party appears to be acting unreasonably in connection with the disputes.